

# FORDHARRISON

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July 30, 2024

## VIA ECF

The Honorable Diane Gujarati  
United States District Court  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, New York 11201

**Re: Sampson v. International Union of Operating Engineers**  
**Case No.: 1:22-cv-03588**

Dear Judge Gujarati:

Our firm represents Defendant International Union of Operating Engineers Local 14-14B (“Defendant”) in the above-referenced matter. Defendant respectfully writes to indicate that the arguments it has submitted to the Court objecting to Magistrate Judge Eshkenazi’s denial of Defendant’s motion to strike remains unimpacted. On July 29, 2024, in response to Defendant’s formal objections submitted to Your Honor, Magistrate Judge Eshkenazi clarified the Order underlying Defendant’s formal objections (the July 2, 2024 Order), by issuing an electronic Order indicating that it is inconsequential what Plaintiff’s supplemental expert report is called, because Magistrate Judge Eshkenazi maintains that the decision regarding preclusion is unimpacted. Defendant respectfully submits that it is of paramount importance what type of expert report Plaintiff was permitted to file as there is a difference between what is permitted in a “rebuttal” as opposed to a mere “supplemental” expert report. Additionally, it is of paramount importance that the supplemental report at issue in Defendant’s formal objection to Your Honor blatantly attempts to call into question authenticity of records that even Magistrate Judge Eshkenazi recognizes were never reviewed by Plaintiff’s expert in order to prepare the supplemental report.

As such, Defendant respectfully submits that its objections submitted to Your Honor remain unchanged by Magistrate Judge Eshkenazi’s clarification of the July 2, 2024 Order denying Defendant’s motion and it is respectfully submitted that the pending motion should be granted.

Respectfully submitted,

/s/Richard Bahrenburg

Richard Bahrenburg, Esq.